

## **Chapter 6**

### **Sentencing dispositions other than imprisonment**

## Sentencing dispositions other than imprisonment

While a term of imprisonment is the most common sentence given in the Higher Courts, other sentencing orders are an important part of the overall picture of how defendants are dealt with by these courts. This section reviews the main features of the key sentencing dispositions other than imprisonment. This includes:

- Intensive correction orders
- Suspended sentences of imprisonment
- Detention in a youth training centre
- Community based order
- Fine
- Adjourned undertaking

## Intensive Correction Order

An intensive correction order is a sentence of imprisonment that is served in the community. Persons sentenced to an intensive correction order must not re-offend for the duration of the order and must also comply with core conditions including stringent conditions to report to Community Correctional Services twice a week, as well as completing 8 hours per week of community service. They may also be required to undertake treatment or rehabilitative programs. The majority of intensive correction orders were imposed for offences against the person. Over half of all intensive correction orders were for between 9 and 12 months. Very few intensive correction orders were imposed for 'other' offences.

**Table 6.1**

**Order lengths for defendants who received an intensive correction order for their principal proven offence, 2001/02-2005/06**

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
<b>Offences Against the Person</b>					
0<3 months	-	-	-	-	-
3<6 months	2	1	6	1	4
6<9 months	8	5	8	8	10
9<12 months	23	17	23	16	17
<i>Total</i>	<i>33</i>	<i>23</i>	<i>37</i>	<i>25</i>	<i>31</i>
<b>Property Offences</b>					
0<3 months	-	-	-	-	-
3<6 months	-	-	4	3	-
6<9 months	6	3	5	5	2
9<12 months	7	9	24	15	3
<i>Total</i>	<i>13</i>	<i>12</i>	<i>33</i>	<i>23</i>	<i>5</i>
<b>Drug Offences</b>					
0<3 months	-	-	-	-	-
3<6 months	-	-	1	-	-
6<9 months	2	-	-	-	5
9<12 months	3	3	5	2	4
<i>Total</i>	<i>5</i>	<i>3</i>	<i>6</i>	<i>2</i>	<i>9</i>
<b>Other Offences</b>					
0<3 months	-	-	-	-	-
3<6 months	-	-	-	-	-
6<9 months	-	-	-	-	-
9<12 months	1	-	1	-	3
<i>Total</i>	<i>1</i>	<i>-</i>	<i>1</i>	<i>-</i>	<i>3</i>
<b>Total Intensive Correction Orders</b>	<b>52</b>	<b>38</b>	<b>77</b>	<b>50</b>	<b>48</b>

## Suspended Sentence of Imprisonment

A suspended sentence of imprisonment can be wholly or partially suspended. In this report a suspended sentence incorporates both partially and wholly suspended sentences. It also includes partially and wholly suspended sentences with a recognisance released order (previously known as section 20(1)(b) Commonwealth bond).

A suspended sentence of imprisonment comprises three components: the term of imprisonment, the period to be suspended and the period for which that term is suspended (the *operational period*). Where the imprisonment term and the period suspended are not the same, a partially suspended sentence has been imposed. Any difference between the figures will be the actual term of imprisonment which must be served in custody.

During the operational period of a suspended sentence the defendant must not commit further offences. If the defendant completes the operational period without breaching the order, the term of imprisonment which was suspended is held to have been completed.

## Suspended sentence of imprisonment, continued

### Partially suspended sentence

The number of partially suspended sentences imposed over the period increased by 63% to 2004/05, but decreased to an overall increase of 21% over the five year period. The average imprisonment length for a partially suspended sentence is higher than for a wholly suspended sentence. The average imprisonment length was between 18 and 21 months. The average period suspended was between 10 and 13 months. Offenders sentenced to a partially suspended sentence will on average serve between 7 and 8 months in custody.<sup>4</sup> This was a consistent trend over the period. The average operational period ranged from 25 to 27 months.

**Table 6.2**

**Order lengths for defendants who received a partially suspended sentence for their principal proven offence, 2001/02-2005/06**

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
<b>Offences Against the Person</b>					
Number of orders made	52	59	64	72	54
Average imprisonment length (months)	14	20	18	17	15
Average suspended period (months)	9	12	11	10	9
Average operational period (months)	23	27	28	24	25
<b>Property Offences</b>					
Number of orders made	42	62	69	80	51
Average imprisonment length (months)	18	20	15	17	18
Average suspended period (months)	12	13	9	10	11
Average operational period (months)	27	28	26	25	25
<b>Drug Offences</b>					
Number of orders made	30	36	32	51	45
Average imprisonment length (months)	22	24	21	22	20
Average suspended period (months)	15	15	13	14	12
Average operational period (months)	28	26	25	27	28
<b>Other Offences</b>					
Number of orders made	7	7	8	11	9
Average imprisonment length (months)	19	21	22	26	22
Average suspended period (months)	9	15	12	14	11
Average operational period (months)	24	24	20	26	22
<b>Total</b>					
Number of orders made	131	164	173	214	159
Average imprisonment length (months)	18	21	18	19	18
Average suspended period (months)	11	13	10	11	11
Average operational period (months)	26	27	26	25	26

<sup>4</sup> The length of time the defendant will serve in custody is calculated by subtracting the suspended period from the imprisonment length.

## Suspended sentence of imprisonment, continued

### Wholly suspended sentence

The number of wholly suspended sentences imposed over the period increased by 52% to 2003/04 before dropping to an overall increase of 33% in 2005/06. The average length of wholly suspended sentence over the period remained steady at 13 to 14 months. The average operational period ranged from 23 to 24 months throughout the period.

Table 6.3

Order lengths for defendants who received a wholly suspended sentence for their principal proven offence, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
<b>Offences Against the Person</b>					
Number of orders made	157	167	212	224	173
Average imprisonment length (months)	14	13	14	13	14
Average operational period (months)	24	22	23	23	24
<b>Property Offences</b>					
Number of orders made	138	193	224	204	191
Average imprisonment length (months)	11	13	12	12	13
Average operational period (months)	26	26	24	23	24
<b>Drug Offences</b>					
Number of orders made	47	54	102	75	99
Average imprisonment length (months)	15	17	14	16	17
Average operational period (months)	25	26	24	27	25
<b>Other Offences</b>					
Number of orders made	29	18	25	37	31
Average imprisonment length (months)	10	11	12	9	10
Average operational period (months)	19	24	22	19	22
<b>Total</b>					
Number of orders made	371	432	563	540	494
Average imprisonment length (months)	13	14	13	13	14
Average operational period (months)	24	24	24	23	24

## Detention in a Youth Training Centre

If the defendant is a young person, aged under 21 at the time of sentencing, and the court imposes a sentence of imprisonment, the defendant may be detained in a Youth Training Centre. Decisions about parole and release are made by the Youth Parole Board. Where the defendant is under 15 he or she will alternatively be detained in the Youth Residential Centre. Between 2001/02 and 2005/06, the Higher Courts did not sentence any defendants aged under 15.

Detention in a youth training centre was most common for offences against the person. Sentence lengths for offences against the person varied from year to year. Offences against property had between 8 and 11 youth training centre orders made. Very few youth training centre orders were imposed for drug or other offences.

## Detention in a Youth Training Centre, continued

Table 6.4

Order lengths for defendants who received a youth training centre order for their principal proven offence, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
<b>Offences Against the Person</b>					
0<3 months	1	-	-	-	-
3<6 months	3	2	-	2	1
6<9 months	8	4	4	5	3
9<12 months	10	3	4	7	2
12<18 months	20	9	14	14	3
18<24 months	8	8	7	8	12
24<36 months	14	9	9	16	10
36<48 months	5	4	3	10	12
<i>Total</i>	<i>69</i>	<i>39</i>	<i>41</i>	<i>62</i>	<i>43</i>
<b>Property Offences</b>					
0<3 months	-	-	-	-	-
3<6 months	4	2	1	-	-
6<9 months	1	2	1	3	-
9<12 months	-	-	-	1	1
12<18 months	4	4	2	2	5
18<24 months	1	3	2	2	-
24<36 months	1	-	2	-	2
36<48 months	-	-	-	-	1
<i>Total</i>	<i>11</i>	<i>11</i>	<i>8</i>	<i>8</i>	<i>9</i>
<b>Drug Offences</b>					
0<3 months	-	-	-	-	-
3<6 months	-	-	-	-	-
6<9 months	-	-	-	-	-
9<12 months	-	-	-	-	-
12<18 months	-	-	-	-	-
18<24 months	-	-	-	-	-
24<36 months	-	-	-	-	-
36<48 months	-	-	1	-	-
<i>Total</i>	<i>-</i>	<i>-</i>	<i>1</i>	<i>-</i>	<i>-</i>
<b>Other Offences</b>					
0<3 months	-	-	-	-	-
3<6 months	-	-	-	-	-
6<9 months	-	1	-	-	-
9<12 months	-	-	-	-	-
12<18 months	1	-	-	-	-
18<24 months	-	-	-	-	-
24<36 months	-	-	-	-	-
36<48 months	-	-	-	1	-
<i>Total</i>	<i>1</i>	<i>1</i>	<i>-</i>	<i>1</i>	<i>-</i>
<b>Total Youth Training Centre orders</b>	<b>81</b>	<b>51</b>	<b>50</b>	<b>71</b>	<b>52</b>

## Community Based Orders

A community based order is a sanction of intermediate severity intended to both punish and rehabilitate offenders. Like the intensive correction order, this order required defendants to comply with a range of core conditions, including reporting to the Community Correctional Services at prescribed intervals. Defendants may also be required to carry out unpaid community work and undertake treatment and rehabilitative programs. The majority of community based orders made in the Higher Courts were 12 months or over.

**Table 6.5**

**Order lengths for defendants who received a community based order for their principal proven offence, 2001/02-2005/06**

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
<b>Offences Against the Person</b>					
0<3 months	-	-	-	-	-
3<6 months	-	-	1	1	-
6<9 months	1	8	9	3	1
9<12 months	-	4	2	-	-
12<18 months	47	45	65	47	45
18<24 months	17	30	19	18	17
24<36 months	57	63	58	63	42
<i>Total</i>	<i>122</i>	<i>150</i>	<i>154</i>	<i>132</i>	<i>105</i>
<b>Property Offences</b>					
0<3 months	-	-	-	-	-
3<6 months	-	-	-	-	-
6<9 months	-	-	4	-	1
9<12 months	1	2	-	1	-
12<18 months	16	25	20	30	21
18<24 months	8	8	6	11	8
24<36 months	13	19	18	27	13
<i>Total</i>	<i>38</i>	<i>54</i>	<i>48</i>	<i>69</i>	<i>43</i>
<b>Drug Offences</b>					
0<3 months	-	-	-	-	-
3<6 months	-	-	-	-	-
6<9 months	-	1	1	-	-
9<12 months	1	-	-	-	-
12<18 months	4	2	2	1	5
18<24 months	3	-	1	-	2
24<36 months	1	2	4	1	3
<i>Total</i>	<i>9</i>	<i>5</i>	<i>8</i>	<i>2</i>	<i>10</i>

## Community based orders, continued

Table 6.5, (cont)

Order lengths for defendants who received a community based order for their principal proven offence, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
<b>Other Offences</b>					
0<3 months	-	-	-	-	-
3<6 months	-	-	-	-	-
6<9 months	-	-	-	1	-
9<12 months	-	-	-	-	-
12<18 months	1	1	7	3	10
18<24 months	-	-	-	1	3
24<36 months	3	1	4	5	9
<i>Total</i>	4	2	11	10	22
<b>Total Community Based Orders</b>	173	211	221	213	180

## Fines

The amount of fines in the Higher Courts were extremely varied, reflecting the diversity of sentencing factors considered. The highest fines were made in relation to property offences and offences in the 'other' category. Eleven out of twelve fines in the \$100,000+ category relate to the offence of failing to provide and maintain a working environment that is safe and without risks to health employees.

**Table 6.6**

**Fine amount for defendants who received a fine for their principal proven offence, 2001/02-2005/06**

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
<b>Offences Against the Person</b>					
\$0<\$500	2	3	2	2	5
\$500<\$1,000	3	3	7	6	4
\$1,000<\$1,500	4	3	4	4	4
\$1,500<\$2,000	4	3	5	5	3
\$2,000<\$2,500	1	-	2	4	4
\$2,500<\$5,000	3	6	1	-	2
\$5,000<\$10,000	1	-	-	-	3
\$10,000<\$50,000	1	-	-	-	-
\$50,000<\$100,000	-	-	-	-	-
\$100,000+	-	-	-	-	-
<i>Total</i>	<i>19</i>	<i>18</i>	<i>21</i>	<i>21</i>	<i>25</i>
<b>Property Offences</b>					
\$0<\$500	-	1	-	1	2
\$500<\$1,000	2	-	3	5	6
\$1,000<\$1,500	-	1	4	3	7
\$1,500<\$2,000	-	-	-	3	1
\$2,000<\$2,500	4	3	1	2	4
\$2,500<\$5,000	3	7	1	7	6
\$5,000<\$10,000	1	3	-	2	5
\$10,000<\$50,000	2	6	2	1	-
\$50,000<\$100,000	-	-	-	1	-
\$100,000+	-	-	-	-	-
<i>Total</i>	<i>12</i>	<i>21</i>	<i>11</i>	<i>25</i>	<i>31</i>
<b>Drug Offences</b>					
\$0<\$500	1	1	1	2	4
\$500<\$1,000	-	-	2	2	2
\$1,000<\$1,500	-	-	1	2	2
\$1,500<\$2,000	-	-	2	-	-
\$2,000<\$2,500	-	-	1	-	-
\$2,500<\$5,000	-	1	-	1	1
\$5,000<\$10,000	-	-	1	-	1
\$10,000<\$50,000	-	-	1	-	-
\$50,000<\$100,000	-	-	-	-	-
\$100,000+	-	-	-	-	-
<i>Total</i>	<i>1</i>	<i>2</i>	<i>9</i>	<i>7</i>	<i>10</i>

## Fines, continued

Table 6.6 (cont)

Fine amount for defendants who received a fine for their principal proven offence, 2001/02-2005/06

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
<b>Other Offences</b>					
\$0<\$500	-	2	1	-	1
\$500<\$1,000	1	-	-	-	-
\$1,000<\$1,500	1	1	11	-	1
\$1,500<\$2,000	-	-	4	-	-
\$2,000<\$2,500	-	1	-	-	1
\$2,500<\$5,000	-	1	2	-	2
\$5,000<\$10,000	3	-	1	1	2
\$10,000<\$50,000	-	2	2	8	1
\$50,000<\$100,000	-	2	1	4	4
\$100,000+	1	1	4	1	5
<i>Total</i>	<i>6</i>	<i>10</i>	<i>26</i>	<i>14</i>	<i>17</i>
<b>Total Fines</b>	<b>38</b>	<b>51</b>	<b>67</b>	<b>67</b>	<b>83</b>

## Adjourned Undertakings

An adjourned undertaking is a sentencing order under which the defendant agrees to comply with certain conditions specified by the court for a period of up to five years. The most common condition is to be of good behaviour, although courts may also require the defendant to undertake programs or treatment or other special conditions. Adjourned undertakings were most commonly made for periods of less than 24 months.

**Table 6.7**

**Order lengths for defendants who received an adjourned undertaking for their principal proven offence, 2001/02-2005/06**

	2001-02	2002-03	2003-04	2004-05	2005-06
	<i>Number</i>				
<b>Offences Against the Person</b>					
0<12 months	2	1	4	-	3
12<24 months	19	18	26	13	18
24<36 months	13	6	7	16	13
36<48 months	12	4	8	6	6
48<54 months	-	2	-	-	-
54<66 months	2	3	1	1	-
<i>Total</i>	<i>48</i>	<i>34</i>	<i>46</i>	<i>36</i>	<i>40</i>
<b>Property Offences</b>					
0<12 months	1	-	3	-	3
12<24 months	11	2	8	5	12
24<36 months	6	2	4	2	6
36<48 months	2	3	2	2	6
48<54 months	-	1	-	-	-
54<66 months	-	-	-	-	-
<i>Total</i>	<i>20</i>	<i>8</i>	<i>17</i>	<i>9</i>	<i>27</i>
<b>Drug Offences</b>					
0<12 months	-	-	1	-	1
12<24 months	1	1	1	1	2
24<36 months	1	1	-	1	2
36<48 months	-	-	-	2	3
48<54 months	-	-	-	-	-
54<66 months	-	-	-	-	-
<i>Total</i>	<i>2</i>	<i>2</i>	<i>2</i>	<i>4</i>	<i>8</i>
<b>Other Offences</b>					
0<12 months	1	-	-	2	-
12<24 months	1	11	4	3	1
24<36 months	-	1	2	1	4
36<48 months	1	2	1	-	1
48<54 months	-	-	1	-	-
54<66 months	-	1	-	-	1
<i>Total</i>	<i>3</i>	<i>15</i>	<i>8</i>	<i>6</i>	<i>7</i>
<b>Total Adjourned Undertakings</b>	<b>73</b>	<b>59</b>	<b>73</b>	<b>55</b>	<b>82</b>

